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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,672	10/07/2003	John N. Dodgen	P06686US0	5448
34082 7590 10/03/2007 ZARLEY LAW FIRM P.L.C. CAPITAL SQUARE 400 LOCUST, SUITE 200 DES MOINES, IA 50309-2350			EXAMINER NGUYEN, THUY-VI THI	
			ART UNIT 3609	PAPER NUMBER
			MAIL DATE 10/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/680,672

**Applicant(s)**

DODGEN, JOHN N.

**Examiner**

Thuy-Vi Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Examiner's Comments***

1. This action is in response to applicant's amendment received on 08/27/2007.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Krim (US Patent Application Publication No. US 2002/0072925 A1).

Regarding to claim 1, Krim discloses a method of celebrating a person's life by attendees at a funeral after the person's death, comprising, causing the person, while alive, to create a message presentation that would welcome the attendee to the person's funeral and include personal comments to the attendee in a generally uplifting sense about the occasion of the funeral [..the person, may have a digital video camera or microphone so that the person may communicate with those at the live funeral, or may provide a prerecorded message, or may type words that will be shared with the live participants through an instant messaging service; see page 5, par. 0063-0064],

storing the message presentation with instructions that the message presentation be played at the person's funeral [...a person with a number of options for specifying delivery of messages, graphics, or any other computer-storable content to designated recipients after the person has died; see page 1, par. 0009-0010],

and publicly playing the message presentation at the person's funeral for the attendees at the funeral to see and hear [...other messages, to be sent at death, may include friends, family, etc. to be notified of the member's death and funeral; see page 2, par. 0028-0033].

Regarding to claim 2, Krim discloses wherein the message presentation is projected on a screen [...the member may provide clip art, video or audio clips to be included in one or more of his messages. For instance, the Message Center screen; see page 3, par. 0037-0038 and figure 5a].

Regarding to claim 3, Krim discloses wherein the message presentation is an audio presentation [...CD ROM; see page4, par. 0051-0052].

Regarding to claim 4, Krim discloses wherein the message presentation is a combination video-type and audio presentation [...audio or video clip to be in his message; see page3, par. 0037-0038 and figures 4a-4c]

Regarding to claim 5, Krim discloses wherein the message presentation is an audio/video presentation [...survivors of the deceased may establish an internet hookup and a digital video camera at the funeral, to make the proceedings available to any interested person over the internet; see page4, par. 0063-0064].

***Response to Arguments***

4. Applicant's arguments filed 08/27/07 have been fully considered but they are not persuasive. Applicant contends, *inter alia*, that Krim does not disclose the same process as the claimed invention. Examiner acknowledges applicant's position; however, a reference is deemed to properly anticipate a claim when all the recited limitations or process steps are disclosed therein. In this instance, Krim shows all the recited limitations and process including:

Applicant argued that Krim' par. 0063 message can only be generated by the survivors. This argument is not persuasive. Applicant's attention is directed to par. 0063, lines 6-10; "The person, conversely, may have a digital video camera or microphone so that the person may communicate with those at the live funeral, or may provide a prerecorded message, or may type words that will be shared with the live participants through an instant messaging service" and at least figures 5C and 5F. It is clear that the messages in the figures are created by the potential decease to be played for the survivors at the ceremony.

Applicant argued that Krim teaches away from the claimed invention because it teaches a notification function and not a mourning function. This argument is not persuasive. Applicant's claims do not distinctly support said argument.

Applicant argued that Krim does not teach the delivery of message at the funeral. This argument is not persuasive. Applicant's attention is directed to par. 0063. Krim in

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deed shows that a prerecorded message is presented at the funeral for the live funeral attendees.

For the reason above, the grounds for rejection are deemed proper.

### ***Conclusion***

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrence Till can be reached on 571-272-1280. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BRIAN NASH  
BN 9/27/07  
Terrence Till

Supervisory Patent Examiner

TN